

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Amendment of Section 73.202(b), )  
Table of Allotments, )  
FM Broadcast Stations )  
(The Dalles and Corvallis, Oregon )

MM Docket No. 96-12  
RM-8741

and )

Amendment of Section 73.202(b), )  
Table of Allotments, )  
FM Broadcast Stations )  
(Banks, Redmond and Corvallis, )  
Oregon )

MM Docket No. 96-7  
RM-8732

TO: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**OPPOSITION TO MOTION TO STRIKE**

LifeTalk Broadcasting Association ("LifeTalk"), by counsel, hereby opposes the "Motion To Strike" filed in the above-identified proceedings on July 24, 1996 by Madgekal Broadcasting, Inc. ("MBI"). MBI asked the Commission to strike from the record LifeTalk's "Supplement to Comments" filed on July 15, 1996. For the reasons set forth below, the Commission should reject MBI's Motion.

In its Notice of Proposed Rulemaking in Docket 96-12, the Commission made the extraordinary request that the petitioner affirmatively commit to propose to construct a station with a tower height of at least 209 meters. As the original petitioner, LifeTalk filed Comments on April 5, 1996 in which it committed to apply for and construct a new station on the frequency in question if the allotment to The Dalles is adopted

by the Commission. LifeTalk overlooked the Commission's request to specify that it would apply for a station with a tower height of at least 209 meters. That oversight was mended with the filing of LifeTalk's Supplement on July 15, wherein LifeTalk expressly committed to apply for a station with whatever height necessary to cover the community of license with a city-grade signal.

MBI's request to strike LifeTalk's Supplement demonstrates an effort to place form over substance. MBI has not shown that any party was prejudiced by the timing of LifeTalk's pleadings. MBI does not allege that it was misled or confused by LifeTalk's initial failure to specifically state the height of the tower for the prospective station. MBI does not state that it was surprised to learn from LifeTalk's July 15 Supplement that the station LifeTalk had committed to propose in its April 5 Comments would really have a tower height consistent with the Commission's requirements. Of course, LifeTalk's April 5 commitment to apply for a station to occupy the proposed allotment at The Dalles implied that such an application would be consistent with the Commission's rules. MBI has not claimed that it believed otherwise. Rather, MBI is asking the Commission to pursue a legalistic approach which has no bearing in common sense.

LifeTalk made an innocent minor procedural mistake, which it later corrected. LifeTalk's intentions to apply for the type of facility which the Commission requires to be constructed at The Dalles certainly were implicit in LifeTalk's original Comments of April 5. Any other intent or purpose on

LifeTalk's part would have been pointless. MBI does not state that it inferred any other intent. Neither MBI nor any other party was prejudiced by LifeTalk's actions.

Under these circumstances, the Commission must take a course of action which promotes the public interest. The public interest demands that these proceedings include the most complete record possible and the involvement of all legitimately interested parties. Granting MBI's Motion to Strike would be contrary to these principles.

Wherefore, LifeTalk respectfully urges that MBI's Motion to Strike be denied and that LifeTalk's Supplement to Comments be retained in the record of these proceedings.

Respectfully submitted,

LIFETALK BROADCASTING ASSOCIATION

By:   
Donald E. Martin

DONALD E. MARTIN, P.C.  
P. O. Box 19351  
Washington, D.C. 20036  
(202) 887-5070

Its Attorney

August 7, 1996

CERTIFICATE OF SERVICE

I, Donald E. Martin, hereby certify this 7th day of August, 1996, that I have caused a copy of the foregoing document to be served by United States mail with first class postage prepaid upon the following:

James P. Riley, Esquire  
Anne Goodwin Crump, Esquire  
Fletcher, Heald & Hildreth  
1300 North 17th Street  
11th Floor  
Arlington, Virginia 22209  
Counsel for Common Ground Broadcasting, Inc.

J. Dominic Monahan, Esquire  
Luvaas, Cobb, Richards & Fraser  
Suite 300  
777 High Street  
Eugene, Oregon 97401  
Counsel for Combined Communications, Inc.

Roger J. Metzler, Esquire  
Keck, Mahin & Cate  
One Maritime Plaza  
23rd Floor  
San Francisco, California 94111  
Counsel for Hurricane Communications, Inc.

Matthew H. McCormick, Esquire  
Reddy, Begley & McCormick  
Suite 350  
1001 22nd Street, N.W.  
Washington, D.C. 20037  
Counsel for Madgekal Broadcasting, Inc.

Jerold L. Jacobs, Esquire  
Rosenman & Colin  
Suite 200  
1300 19th Street, N.W.  
Washington, D.C. 20036  
Counsel for American Radio Systems License Corp.

  
Donald E. Martin